

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

OCT 12 1995

FEDERAL COMMUNICATIONS COMMISSION
RECEIVED SECRETARY

In the Matter of
Telephone Number Portability

CC Docket No. 95-116

DOCKET FILE COPY ORIGINAL

NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS'
REPLY COMMENTS

PAUL RODGERS
General Counsel

CHARLES D. GRAY
Assistant General Counsel

JAMES BRADFORD RAMSAY
Deputy Assistant General Counsel

National Association of
Regulatory Utility Commissioners

1102 ICC Building
Post Office Box 684
Washington, D.C. 20044

(202) 898-2200

October 11, 1995

No. of Copies rec'd
List ABCDE

019

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

OCT 12 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of
Telephone Number Portability

CC Docket No. 95-116

NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS'
REPLY COMMENTS

Pursuant to Sections 1.41 and 1.49 of the Federal Communications Commission's ("FCC" or "Commission") Rules of Practice and Procedure, 47 C.F.R. §§ 1.41 & 1.49 (1994), the National Association of Regulatory Utility Commissioners ("NARUC") respectfully files these comments in response to the initial round of pleadings addressing the FCC's July 13, 1995 "Notice of Proposed Rulemaking", ("NPRM") adopted in the above captioned proceeding.

DISCUSSION

The NPRM adopted in this docket seeks comment on a variety of policy and technical issues concerning numbering portability ("NP"). In NARUC's initial comments, we suggested that (1) more information about the development and implementation of the different types of NP should be collected, (2) the FCC should encourage States to move forward with NP workshops, trials, and full NP implementations as one means of gathering timely information about NP deployment, and (3) the FCC should use the data gathered in this proceeding and from State implementation proceedings to establish nationwide policy guidelines concerning service provider, location and service telephone NP.

NARUC also asserted that the FCC guidelines should accommodate different State-implemented service provider solutions that are not inconsistent with nationwide NP policy.

Approximately sixty-seven entities responded to the NPRM. NARUC was gratified to discover that most commentors' suggestions were at least broadly consistent with NARUC's suggested three pronged approach.

For example, although there were differences about how the FCC should proceed, with very few exceptions,¹ almost all, like NARUC, indicated that additional information is needed before a final solution is selected.

Similarly, of those that addressed the issue of ongoing State trials, a majority agree with the FCC's recognition, in ¶ 32, mimeo at 13, of the NPRM "...that state regulators also have legitimate interests in the development of numbering portability..." and the suggestion that (i) existing trials be allowed to continue and (ii) State implementation proceedings that are not inconsistent with nationwide number portability policy should not be impeded by subsequent national guidelines.

Finally, while there were differences about the content, specificity, and timelines for action, it appeared that all those filing comments agreed that the FCC should establish nationwide guidelines.

¹ The initial comments of MCI Communications Corporation, AT&T, GTE Services Corporation, and the Independent Telecommunications Network, Inc. did support a specific NP solution. Even these comments, however, suggest that some additional proceedings are required.

All the major industry segments' comments overlapped somewhat on these three points, i.e., (P1) the FCC's leadership role in establishing broad guidelines, (P2) the State role in developing NP information and implementing NP solutions, and (P3) the need to collect additional information.

The local exchange carrier ("LEC") sector was well represented.²

² See, e.g., Ameritech, at 4, urges the FCC to establish a national framework for interoperability/interconnection (P1 & P3), at 3-4, suggests the implementation of specific NP services by the industry through the cooperative efforts of providers and state regulators (P2), and, at 6-7, suggests a Federal-State joint board on cost assignment issues (P2); Bell Atlantic at 4, suggests the FCC charge ATIS with gathering relevant data as interim solutions are implemented (P1 & P3), at 8-9, references a need to discuss cost estimates (P3), and, at 11, suggests a nationwide long-term NP solution but argues that implementation of the solution be determined by the States (P1 & P2); BellSouth at 58-9, suggests States be allowed to implement interim service provider NP solutions (P2), at 50-2, suggests States determine when permanent portability capabilities are deployed (P2) and the FCC and industry determine the most desirable solution (P1), {but also suggesting States be prevented from implementing long term solutions until that time - a suggestion that fails to acknowledge that such long term solutions may well be compatible with the standards ultimately adopted}, and, at 46-53, suggests the FCC oversee industry development of a solution (P1); Cincinnati Bell Telephone at 5-6, agrees the FCC needs to take a leadership role in NP solutions (P1), but contends that States should continue testing discrete NP proposals (P2), GTE Service Corporation, at 21-22, contends the FCC should adopt a national plan (P1) but acknowledges that State efforts can be a source of valuable insight and information (P2 & P3); Independent Telecommunications Network, Inc., at 1-2, supports FCC national principles (P1); NYNEX Telephone Companies, at 2, applauds the FCC's decision to assume a leadership role (P1), at 10-11, asks the FCC to solicit industry groups to develop efficient solutions (P3), and, at 15-16, indicates that existing State trials should be studied to determine what is economically and technically feasible and that interim solutions be encouraged (P2); Pacific Companies, at 1-2 urges the FCC to develop national policies on NP issues related to number conservation, interconnectivity and cost recovery (P1), suggesting it would facilitate current State efforts (P2); SBC Communications at 2-3 supports the FCC assuming

The LEC deviations from the general approach advocated by NARUC includes the BellSouth suggestion that States not implement long term NP solutions until the FCC comes up with a national standard, and SBC's submission that multiple solutions implemented on a state-by-state basis would dilute development efforts and cause confusion. See, footnote 2, supra. These comments automatically, and NARUC contends, erroneously, assume that long term solutions implemented by the States will necessarily be technologically incompatible with whatever broad standards the FCC ultimately settles upon. They also ignore the drag on developing local competition that would occur if the FCC were to attempt to halt State NP implementation efforts.³ NARUC's position is better made by the industry sector some believe is best positioned to provide competition to the LECs - the cable industry.

a leadership role (P1), {and also, at 19-20, submits that multiple solutions implemented on a state-by-state basis would dilute development efforts and cause confusion}; TDS Communications at 1-4, suggests the FCC supervise industry development of uniform technical standards (P1); United States Telephone Association at 2, suggests the FCC has an important role in developing uniform performance characteristics (P1), at 4-5 indicates the States along with the FCC and industry have a role to plan in NP deployment (P2) {although they suggest, at 6, that State NP requirements not impede the national policy} and, at 6, suggest an industry group seek solutions which would then be put out for additional comment (P3); US West Communications Inc., at 3, indicate the FCC must provide policy leadership (P1), at 9-11, suggested the FCC preempt "incompatible" State solutions, and, at 23, suggest that State commission decide when and where service provider NP should be implemented (P2).

³ Cf. California Cable Television Association comments at 8-9; see also MFS Communications Company, Inc. at 6, noting that it is not necessary that there be a single nation-wide database or that NP be implemented simultaneously nationwide, as long as implementation is compatible with nationwide standards and urging the FCC to encourage the States to continue NP trials.

Even the National Cable Television Association,⁴ at 6 of its comments, argues that the FCC should not reverse whatever actions the States have taken unless a state-adopted solution is incompatible with a national solution. (P1 & P2). The other Cable commentor in this proceeding, the California Cable Television Association, at 3 of its comments, urges the FCC to remain aware that various States have already made progress in developing NP solutions to foster local exchange competition. CCTA suggests that, to the extent the FCC adopts uniform regulations, it should strive to ensure that those regulations respect the progress that the states have already made (P2). Indeed, like NARUC, CCTA contends, at 8-9, that the FCC should just set broad national guidelines which ensure that solutions developed and implemented at the State level are able to interface with a national solution.

The seven interexchange carrier pleadings also support the FCC establishing broad national guidelines (P1) after additional proceedings (P2). The nature of the State role in NP implementation is, however, the source of at least one conflicting view.

AT&T, at p.6, note 8 of its comments, suggests that the FCC's leadership in this area in no way requires conflict with the States, and, like NARUC, urges the FCC to encourage States to continue NP trials and inquiries (P2) to provide additional data until the FCC adopts a permanent solution.

⁴ NCTA is not overly supportive State interests. For example, at 9 of its comments, it suggests that if NP were left completely to the States, it would result in a patchwork of inconsistent technical and economic rules.

Similarly, MCI Telecommunications Corporation, at 5-6, of their comments, contend that states should continue to play the pivotal role in selection of the portability model to be used in their respective States and, at 7-8, suggest that the FCC implement guidelines to assist industry and State regulators in NP implementation.

However, America's Carriers Telecommunications Association, an IXC group, had perhaps the most dismal view of States NP efforts, suggesting, at 6-7 of their comments that State participation in the NP issue is "a prescription for disaster." While they urged the FCC to preempt State efforts, other than a few conclusory [and erroneous] statements invoking a flawed analogy to the administration of the North American Numbering plan, little was offered in support of their position.

Commentors representing the Competitive Access Provider ("CAP") industry segment also generally supported broad FCC NP guidelines and additional proceedings to, inter alia, collect information on the costs and benefits of various solutions.⁵

⁵ See, generally, Ad Hoc Coalition of Competitive Carriers, at 9, Association of Local Telecommunications Services, at 9-12; Citizens Utilities Company, at 9, suggesting State and industry collaborations which have already made progress could continue but in line with the FCC's broad guidelines; MCI Metro, at 10, suggesting referral of the issue to the appropriate T1 standards committee; MFS Communications Company, Inc., at 1-9; Telecommunications Resellers Association, at 10, 16-17; Teleport Communications Group Inc, at 3-10, and Time Warner Communications Holdings, Inc., at 3-4, suggesting the FCC facilitate the establishment of nationwide NP.

Moreover, those CAP comments that specifically address the appropriate role for States in NP implementation were generally sympathetic to NARUC's stated position,⁶ as were the State affiliated commentors that filed.⁷

Finally, commentors representing wireless carriers also filed responses to the FCC's NPRM. Significantly, Air Touch Paging and Arch Communications, in their joint comments at 8-9, noted the need to give due attention to the role to be played by State regulatory commissions to avoid intractable jurisdictional disputes.

⁶ See, e.g., Citizens Utilities Company, at 9, argues that State initiatives which have already made progress could continue but in line with the FCC's broad guidelines; MCI Metro, at 5-6, urges the FCC to allow the States to continue to play the pivotal role in the selection of the NP model to be used in their States; MFS Communications Company, Inc., at 1-2, echoes NARUC's comments that every State implementing local exchange competition is considering some form of interim NP, and, at 7, urges the FCC to encourage State sponsored trials as sources of critical information; and, Time Warner Communications Holdings, Inc. at 23-4, states that State regulators should play a significant role in NP service provider implementation.

⁷ See, e.g., Illinois Commerce Commission, at 2-3, notes the need for federal involvement, at 8-9, suggests that its own NP efforts will yield data valuable to the FCC and other States on NP implementation, and urges the FCC not to take steps that would intrude into the authority of States concerning NP requirements or delay NP implementation in Illinois; New York Department of Public Service, at 5, questions the FCC's tentative conclusion that state policies will diverge or be inconsistent with federal policies or will be more costly than mandating a national approach and urges a cooperative FCC-State approach to the NP problem; Public Utility Commission of Texas, at 2, urges the FCC to study the methods the States are implementing before establishing national policy; and State of California, at 2-3, suggests that any national service provider NP solutions adopted by the FCC should work in concert with solutions adopted by the States, that it is premature for the FCC to conclude that different solutions would have a significant impact on the provision of interstate services, and that the FCC should consider the timely data emerging from the States on NP.

Overall, it appears clear that the record evidence accumulated thus far in this docket supports a significant State role in NP implementation, broad federal guidelines, and additional proceedings to collect more cost and technical information on NP solutions.

CONCLUSION

Based on the foregoing, NARUC continues to respectfully request that the FCC (1) continue to allow and encourage State Commissions to move forward with existing and future NP workshops, trials and full NP implementation schedules and (2) use the data - gathered from, inter alia, the various multiple state NP initiatives - to establish nationwide service provider, location and service telephone number portability policy guidelines which accommodate states-implemented service provider solutions that are not inconsistent with the nationwide policy.

Respectfully submitted,


PAUL RODGERS
General Counsel


CHARLES D. GRAY
Assistant General Counsel


JAMES BRADFORD RAMSAY
Deputy Assistant General Counsel

National Association of
Regulatory Utility Commissioners

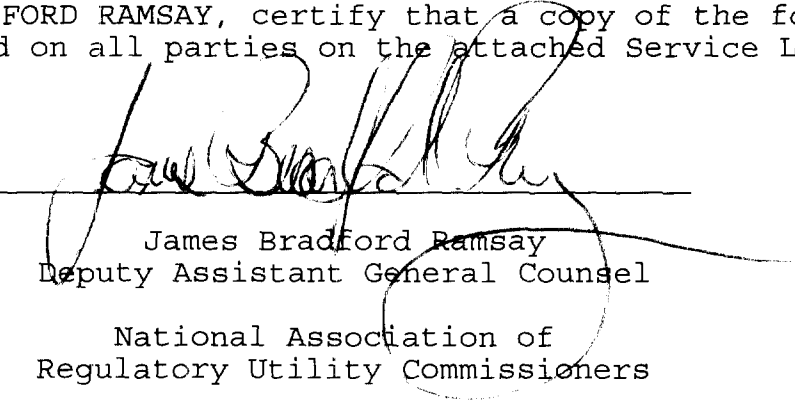
1102 ICC Building
Post Office Box 684
Washington, D.C. 20044
(202) 898-2200

October 11, 1995

In the Matter of
Telephone Number Portability
CC Docket No. 95-116
RM 8535

CERTIFICATE OF SERVICE

I, JAMES BRADFORD RAMSAY, certify that a copy of the foregoing
was served on all parties on the attached Service List.



James Bradford Ramsay
Deputy Assistant General Counsel

National Association of
Regulatory Utility Commissioners

October 11, 1995